

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

DARRELL GUNN, 03-B-2443,

Plaintiff,

-vs-

CHAD BESCLER, et al.,

Defendants.

NOTICE OF MOTION

16-CV-6206

PLEASE TAKE NOTICE that upon the pleadings in this action, all prior proceedings, and the accompanying Rule 56 Statement of Facts; Notice to *Pro Se* Litigant Regarding Rule 56 Motion for Summary Judgment; and Memorandum of Law; as well as the Declaration of Heather L. McKay; Declaration of Timothy Perry; Declaration of Jeffrey Claflin; Declaration of Chad Beschler; Declaration of Brandon Schieber; and all related exhibits, the defendants Perry, Claflin, Beschler, and Schieber (“Defendants”) now move this Court for summary judgment dismissing the complaint with prejudice, as well as such other and further relief as this Court may deem just and proper.

PLEASE BE ADVISED, that pursuant to Rule 56(b) of the Federal Rules of Civil Procedure, when a motion for summary judgment is made and properly supported, you may not simply rely upon the complaint, but you must respond, by affidavits or as otherwise provided in the rule, setting forth further specific facts showing that there are genuine issues of material facts for trial. Any factual assertions in our affidavit will be accepted by the Court as being true unless you submit affidavits or other documentary evidence contradicting our assertions. If you do not respond to the defendants’ motion as described above, summary judgment, if appropriate, may be entered against

you. **If summary judgment is entered against you, your case against the moving party will be dismissed.**

PLEASE BE FURTHER ADVISED, that pursuant to Local Rule 56 of the Western District of New York, you must include a separate, short and concise statement of any material facts as to which you contend there exist a genuine issue for trial. In the absence of such a statement, all material facts set forth in Defendants' Rule 56 Statement will be deemed admitted.

This motion is submitted on the papers. No oral argument is requested. Defendants reserve the right to submit reply papers.

Dated: February 18, 2021
Rochester, New York

LETITIA JAMES
Attorney General for the State of New York
Attorney for Defendants

s/ Heather L. McKay
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CERTIFICATE OF SERVICE

I certify that on February 18, 2021, I electronically filed the foregoing Notice of Motion with the Clerk of the District Court using CM/ECF system, which sent notification of such filing to the following:

1. n/a

And, I hereby certify that I have mailed, by the United States Postal Service, the document to the following non-CM/ECF participant(s):

1. **Darrell Gunn**
03-B-2443
SING SING CORRECTIONAL FACILITY
354 Hunter Street
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s/ Heather L. McKay
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